

**IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH CAROLINA**

|  |   |                                |
|--|---|--------------------------------|
| Ashlei Elizabeth White,                  | ) |                                |
|  | ) |                                |
| Plaintiff,                               | ) | Civil Action No. 2:17-3249-RMG |
|  | ) |                                |
| vs.                                      | ) |                                |
|  | ) |                                |
| Nancy A. Berrryhill, Acting Commissioner | ) |                                |
| of Social Security,                      | ) | <b>ORDER</b>                   |
|  | ) |                                |
| Defendant.                               | ) |                                |
|  | ) |                                |
| _____                                    | ) |                                |

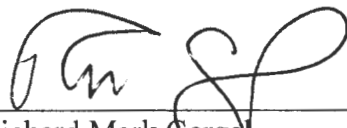
This matter comes before the Court for judicial review of the final decision of the Commissioner of Social Security denying Plaintiff's application for Disability Insurance Benefits ("DIB"). In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to the United States Magistrate Judge for pretrial handling. The Magistrate Judge issued a Report and Recommendation ("R & R") on December 18, 2018, recommending that the decision of the Commissioner be reversed and remanded to the agency because the Administrative Law Judge's failure to adequately explain the absence of a limitation for restroom access in the Plaintiff's RFC. (Dkt. No. 20 at 6-17). As the Magistrate Judge appropriately noted, this issue may be outcome determinative since the Plaintiff has multiple severe impairments that limit her (without consideration for the restroom access limitation) to less than the full scope of sedentary work, the lowest possible level of function that would not

render Plaintiff disabled as a matter of law.<sup>1</sup> The Commissioner has advised the Court that she does not intend to file objections to the R & R. (Dkt. No. 21).

The Court has reviewed the R & R and the record evidence and finds that the Magistrate Judge has ably addressed the factual and legal issues in this matter. Therefore, the Court **ADOPTS** the Report and Recommendation as the order of this Court, **REVERSES** the decision of the Commissioner pursuant to Sentence Four of 42 U.S.C. § 405(g), and **REMANDS** the matter to the Commissioner for further proceedings consistent with this order.

Plaintiff's initial application for disability benefits now dates back over a decade, and it is critical that a final determination by the Commissioner in this matter be made at the earliest time possible. Consequently, the Court hereby orders that the entire administrative process on remand, including any Appeals Council review, be completed no later than 180 days from the date of this order.

AND IT IS SO ORDERED.

  
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Richard Mark Gergel  
United States District Judge

Charleston, South Carolina  
January 4, 2019

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<sup>1</sup> A critical issue to address on remand is whether the Commissioner can carry her burden of demonstrating the availability of a significant number of jobs in the national economy that Plaintiff could perform when the full scope of her functional limitations are considered in determining her RFC. (See testimony of the vocational expert at Tr. 84 and Magistrate Judge's R & R at Dkt. No. 20 at 16-17).